

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)

v.)

ALBERT GONZALEZ,)

Defendant.)

Criminal No. 09-10382-DPW

FILED UNDER SEAL

**MOTION TO INTERVENE UNDER CRIME VICTIMS' RIGHTS ACT, 18 U.S.C. § 3771,
FOR A PROTECTIVE ORDER, AND TO SEAL**

Pursuant to 18 U.S.C. § 3771(a)(4), (a)(8), and (d)(1), and Local Rules 7.1 and 7.2, Company B, a victim of defendant Albert Gonzalez' alleged criminal conduct in this action, moves to intervene and seeks a protective order prohibiting the United States Attorney's Office for the District of Massachusetts (the "Massachusetts USAO"), a transferee district under Rule 20, Fed. R. Crim. P., and the defendant from publicly identifying Company B in this matter. Company B also respectfully requests that, in the event the Court schedules a hearing on this matter, the hearing be conducted in camera and that this motion and enclosed memorandum and Declaration of Ackneil M. (Trey) Muldrow, III be sealed.

As grounds for this Motion, Company B states that it is a victim of the computer crime alleged in this case. Even though Company B's computers were attacked, the government has not alleged that any customer data was taken. Thus, the only victim the government has identified of the defendant's alleged crime in this instance is Company B. As a victim, Company B has a statutory right to privacy. The government employees who communicated with Company B in connection with the government's investigation indicated that they would do their best to protect that right. However, subsequent to transferring the case to Massachusetts for plea

and disposition pursuant to Rule 20, the Massachusetts USAO has disclosed Company B's identity through a Rule 12.4 filing. Because divulging Company B's identity is unnecessary, will likely cause financial harm to the company, alarm customers needlessly, deter corporate victims from cooperating in future criminal investigations, and undermine the purposes behind Rule 20, Company B seeks to intervene in this action to request that a protective order be issued prohibiting the government and the defendant from publicly identifying Company B.

In further support of this motion, Company B submits a Memorandum and the Declaration of Ackneil M. (Trey) Muldrow, III. Company B requests that these materials be sealed, to avoid any possibility that the information submitted might allow Company B's identity to be determined.

WHEREFORE, victim Company B respectfully requests that the Court grant its motion, permitting it to intervene, grant a protective order maintaining the government's Rule 12.4 disclosure under seal, prohibit the government and the defendant from publicly disclosing Company B's identity, seal these submissions, and grant such other relief as the Court deems just and equitable.

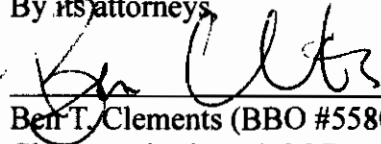
LOCAL RULE 7.1(A)(2) CERTIFICATION

Counsel for Company B has conferred pursuant to Local Rule 7.1(A)(2) with the parties regarding the issues presented by this motion. The government assents to Company B's intervention only. In all other respects, Company B has been unable to reach agreement on the motion with the government. Counsel for the defendant has advised that he does not oppose the motion to intervene and that Mr. Gonzalez has no interest in disclosing, and does not seek the public disclosure of, Company B's identity.

Respectfully submitted,

COMPANY B,

By its attorneys,



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Dated: January 4, 2010

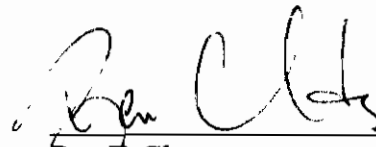
CERTIFICATE OF SERVICE

I hereby certify that this document was served via electronic mail this 4th day of January 2010:

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